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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)

Plaintiff,

No. CV 09-2308 WHA

v.) JOINT REQUEST FOR TEMPORARY
\$8,800 IN) ADMINISTRATIVE CLOSURE;
) [PROPOSED] ORDER

APPROXIMATELY \$8,800 IN
AMERICAN EXPRESS TRAVELERS'
CHECKS; AND ONE PENTAX 35mm
CAMERA, SERIAL NUMBER 1318242

Defendant.

Plaintiff United States and claimant Gary Hardeman (collectively the “parties”) requests that the above-referenced civil forfeiture case be “administratively closed” for purposes of the Civil Justice Reform Act reporting requirements pending the completion of the related criminal prosecution.

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1 The effect of an administrative closure is no different from a simple stay, except that
2 it affects the count of active cases pending on the court's docket; i.e., administratively
3 closed cases are not counted as active. See Lehman v. Revolution Portfolio LLC, 166
4 F.3d 389, 392 (1st Cir. 1999) ("This method is used in various districts throughout
5 the nation in order to shelve pending, but dormant, cases.") In contrast, cases stayed,
6 but not closed, are counted as active. This case still exists on the docket of the district
court and may be reopened upon request of the parties or on the court's own motion.

7 Mire v. Full Spectrum Lending Inc., 389 F.3d 163, 167 (5th Cir. 2004); see also 18 U.S.C. §
8 981(g)(1); The Guide to Judiciary Policies & Procedures, Vol. 11, Chapter 14, Exhibit 1 (a copy
9 of which is attached hereto).

10 The parties submit that the record of this case provides facts sufficient to support
11 administrative closure. On November 30, 2008, Gary Hardeman was arrested at the San
12 Francisco International Airport after boarding a flight to Mexico. Among his belongings, agents
13 found and seized the defendant property. Hardeman was arrested on an outstanding warrant for
14 failing to register as a sex offender, and charges are currently pending in San Francisco County
15 Superior Court. Hardeman was also arrested for Engaging in Illicit Sexual Conduct in Foreign
16 Places, and charges are currently pending in the federal District Court for the Northern District
17 of California. On January 5, 2011, Court stayed the instant civil forfeiture case until April 7,
18 2011, due to claimant's pending criminal prosecution: United States v. Hardeman, 10-cr-00859
19 RS. On October 20, 2011, the United States filed Notice of Appeal of the District Court's
20 dismissal of Count Two of the Indictment (Docket No. 79), and on October 21, 2011 the Court
21 vacated the trial and pre-trial dates. Docket No. 82. On January 14, 2012, the Ninth Circuit
22 reversed the district court's dismissal of Count Two and remanded for further proceedings.
23 Claimant's criminal cases are still ongoing, and the parties have already respectfully requested
24 an additional stay of this case, so as not to raise the risk of self-incrimination or adversely affect
25 the ability of the government to prosecute the related criminal cases.

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Thus, because the criminal case is currently pending, the parties respectively request that this civil forfeiture case be administratively closed for purposes of the Civil Justice Reform Act reporting requirements pending the completion of the related criminal prosecution.

Dated: 01/15/13

/S/ *Daniel Paul Blank*
DANIEL PAUL BLANK
Attorney for Claimant

Dated: 01/15/13

/S/ *David B. Countryman*
DAVID B. COUNTRYMAN
Assistant United States Attorney

1 **[PROPOSED] ORDER TEMPORARILY**
2 **ADMINISTRATIVELY CLOSING CASE**

3 UPON CONSIDERATION of the parties Request for Temporary Administrative Closure, the
4 entire record, and for good cause shown, it is by the Court on this 15 day of January, 2013

5 ORDERED that the instant case be, and hereby is ADMINISTRATIVELY CLOSED for
6 purposes of the Civil Justice Reform Act reporting requirements, until the resolution of United
7 States v. Hardeman, 10-cr-00859 RS;

8 IT IS FURTHER ORDERED this case still exists on the docket of the district court and
9 may be reopened upon request of the United States or Cary Hardeman or on the court's own
10 motion.

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13 IT IS SO ORDERED.

14 DATED: 1/15/13



WILLIAM ALSUP
United States District Judge